

REMARKS

The pending Office Action addresses claims 1-32. Claims 11-23 stand rejected and claims 1-10 and 24-32 are withdrawn from consideration.

Amendments to the Claims

Applicants cancel withdrawn claims 1-10 and 24-32. Applicants reserve the right to pursue these claims in a divisional application. Applicants amend independent claim 11 to recite that the valve is adapted to receive fluid from the reservoir outlet port. Dependent claim 15 is amended to correspond to amended claim 11. Support for these amendments can be found in the specification, at least in paragraph 31 of the application. No new matter is added.

Claim Objection

The Examiner argues that the term “adjust” in independent claim 11 should be changed to “adjusting.” Applicants disagree. Claim 11 recites, “... to selectively restrict at least a portion of one or more lumens in the multi-lumen member to thereby adjust the flow rate of fluid” The terminology of claim 11 is correct and does not need to be changed. Withdrawal of this objection is respectfully requested.

Claims Rejections Pursuant to 35 U.S.C. §102

The Examiner rejects claims 11-22 pursuant to 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,116,308 of Hagiwara. The Examiner references FIG. 1 of Hagiwara and argues that Hagiwara discloses an “assembly capable of infusing drugs through inlet and outlet to the body through the device which is capable of being implanted.” (O.A. dated Sept. 19, 2006, pg. 3). Applicants respectfully disagree.

Independent claim 11 generally recites a drug delivery pump having a housing with a reservoir that receives fluid from a pump inlet port formed in the housing, and that delivers fluid to a valve via a reservoir outlet port formed in the housing. Hagiwara does not disclose a device having a valve that receives fluid from a reservoir outlet port formed in the housing. As shown in FIG. 1 of Hagiwara, the valve (3) is disposed between a first reservoir (4) and a second reservoir (5), and the housing includes an inlet port (7a) that delivers blood to the first reservoir (4) and an outlet port (13) that receives blood from the second reservoir (5). The blood thus flows through the inlet portion (7a)

into the first reservoir (4), then through the valve (3) and into the second reservoir (5). From the second reservoir (5), the blood flows through the outlet port (13). The housing does not include an outlet port formed therein that delivers fluid from a reservoir to the valve, as required by independent claim 11. Thus, independent claim 11, as well as claims 12-23 which depend therefrom, distinguish over Hagiwara and represent allowable subject matter.

Claim Rejections Pursuant to 35 U.S.C. §103(a)

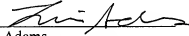
Dependent claim 23 is rejected pursuant to 35 U.S.C. 103(a) as being unpatentable over Hagiwara in view of U.S. Patent No. 6,048,328 of Haller et al. ("Haller"). Claim 23 depends from claim 11, and as discussed above claim 11 distinguishes over Hagiwara. Haller does not remedy the deficiencies of Hagiwara because Haller likewise fails to disclose a device having a housing with a reservoir outlet port formed therein, and a valve that is adapted to receive fluid from the reservoir outlet port, as required by independent claim 11. Haller is merely relied on to teach an implantable drug delivery system that includes a flow sensor located downstream of an outlet to monitor flow. Dependent claim 23 therefore distinguishes over Hagiwara in view of Haller at least because it depends from an allowable base claim.

Conclusion

In conclusion, Applicants submit that all claims are now in condition for allowance, and allowance thereof is respectfully requested. The Examiner is encouraged to telephone the undersigned attorney for Applicant if such communication is deemed to expedite prosecution of this application

Respectfully submitted,

Dated: Dec. 1, 2006

By 
Lisa Adams
Registration No.: 44,238

NUTTER MCLENNEN & FISH LLP
World Trade Center West
155 Seaport Boulevard
Boston, Massachusetts 02210-2604
(617) 439-2550
(617) 310-9550 (Fax)
Attorney for Applicant